



UNITED STATES DISTRICT COURT  
CALIFORNIA NORTHERN DISTRICT (SAN JOSE)

- - -

PAULO ARANDA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 5:06-CV-04738-JW
	)	
NTH CONNECT TELECOM, INC.,	)	
STEVEN CHEN, DOES 1 to 15,	)	
	)	
Defendants.	)	

-----

DEPOSITION OF  
DANIELLE SILVA  
SAN JOSE, CALIFORNIA  
JUNE 6, 2007

ATKINSON-BAKER, INC.  
COURT REPORTERS  
www.depo.com  
(800) 288-3376

FILE NO.: A104C6C

REPORTER BY: NANCY E. PRESANT-McDONALD, CSR NO. 9906

Page 2

UNITED STATES DISTRICT COURT  
CALIFORNIA NORTHERN DISTRICT (SAN JOSE)

PAULO ARANDA, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 5:06-CV-04738-JW  
 )  
NTH CONNECT TELECOM, INC., )  
STEVEN CHEN, DOES 1 to 15, )  
 )  
Defendants. )  
-----

Deposition of DANIELLE SILVA, taken on behalf  
of Plaintiff, at 12 South First Street, Suite 613, San  
Jose, California, commencing at 9:58 a.m., June 6, 2007  
before Nancy E. Presant-McDonald, CSR No. 9906.

Page 3

A P P E A R A N C E S

FOR THE PLAINTIFF:  
DAL BON & WANG  
BY: JAMES DAL BON, ESQUIRE  
12 South First Street  
Suite 613  
San Jose, California 95113  
(877) 841-3044  
  
FOR THE DEFENDANTS:  
FRIEDMAN ENRIQUEZ & CARLSON  
BY: GRANT A. CARLSON, ESQUIRE  
433 North Camden Drive  
Suite 965  
Beverly Hills, California 90210  
(310) 273-0777  
  
ALSO PRESENT:  
STEVEN CHEN

Page 4

I N D E X

WITNESS: DANIELLE SILVA  
EXAMINATION BY MR. DAL BON PAGE 5

EXHIBITS

PLAINTIFF'S

LETTER	DESCRIPTION	PAGE
A	Check log	46
B	Copy of check, Bates stamped NC0053	48
C	Copy of check, Bates stamped NC0052	50
D	Copy of check, Bates stamped NC0051	56
E	Group exhibit of copies of checks, Bates stamped NC0044 to NC0050	57
F	Group exhibit of copies of checks, Bates stamped NC0055 to NC0076	63
G	Response to Plaintiff's Request for Documents	71

QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER (NONE)

INFORMATION TO BE SUPPLIED:  
PAGE LINE  
(NONE)

Page 5

DANIELLE SILVA,

having first been duly sworn, was  
examined and testified as follows:

EXAMINATION BY MR. DAL BON

Q. State your name for the record.

A. Danielle Silva.

Q. And your address?

A. 39481 Galahad Drive, Apartment 131, Fremont, California 94538.

Q. Danielle, have you ever had your deposition taken before?

A. No.

Q. Have you had an opportunity to speak to -- are you represented by an attorney today?

MR. CARLSON: Yes.

MR. DAL BON: Okay.

Q. Have you had an opportunity to speak to your attorney? I don't want to know the contents of that conversation. I just want to know whether you've had an opportunity to speak to him before the deposition.

A. Yes.

Q. Let me kind of explain or give you the ground rules to a deposition. I'm sure your attorney will jump in if he believes that anything I'm saying is incorrect.

Today, you're giving testimony as if you're in

Page 6

1 a court of law, okay? So even though the proceedings  
2 are informal -- for example, I don't have a tie on, just  
3 a shirt, okay, and we're sitting in my office at a  
4 table, and there's boxes there in the corner of the  
5 office, okay -- believe it or not, the testimony you're  
6 giving today is the same testimony or the same -- has  
7 the same legal effect as it would in a court of law. So  
8 you've been sworn under the penalty of perjury. You  
9 have a duty to do your best to answer the questions, and  
10 of course, to answer them truthfully, okay? The penalty  
11 of perjury means that you could be charged with a felony  
12 if it is found you intentionally lied under oath today,  
13 okay?

14 A. Okay.

15 Q. I don't want to know answers to questions that  
16 you don't know basically. So if you don't know the  
17 answer to a question, just say look, I don't know, okay?

18 A. Okay.

19 Q. If you can't remember the answer to a question,  
20 please tell me that you can't remember, okay? You know,  
21 I'm not trying to find out things that you don't know,  
22 and I'm not trying to find out things that you don't  
23 remember. This isn't an interrogation, okay? I'm not a  
24 police officer. I'm an attorney.

25 If you want to stand up and walk around, if you

Page 7

1 want a glass of water, I think we've got some bottled  
2 water here. I'm not sure. You can ask for a bottle of  
3 water. If you want to use the restroom, you can of  
4 course excuse yourself, and if you want to talk to your  
5 attorney before you answer a question, that is okay,  
6 too, and you can talk to your attorney of course out of  
7 my presence, okay?

8 Now, there's some debate on whether deponents  
9 can guess at an answer or not. I'd prefer you not  
10 guess, okay? For example, if I ask you how long this  
11 table is, okay, don't guess at it. Tell me six feet.  
12 You can give me an estimate. I estimate that it's six  
13 feet. See what I'm saying?

14 A. Uh-huh.

15 Q. So there's a difference between guessing and  
16 estimating. If you feel the need or if there is a need  
17 for an estimate, make it clear before you answer it that  
18 it is an estimate and that may happen today because  
19 we're dealing with numbers, okay, and sometimes with  
20 numbers you have to give estimates.

21 I want to kind of get it clear who's present.  
22 My name is James Dal Bon. I am the plaintiff's  
23 attorney.

24 Who is this gentleman sitting at the head of  
25 the table?

Page 8

1 MR. CARLSON: Steven Chen. He is the owner of  
2 Defendant, Nth Connect.

3 MR. DAL BON: Okay.

4 MR. CARLSON: Attorney Grant Carlson is the  
5 attorney for Nth Connect.

6 MR. DAL BON: And you're representing Danielle  
7 today, correct?

8 MR. CARLSON: That's correct.

9 BY MR. DAL BON:

10 Q. Are you an employee of Mr. Chen?

11 A. Yes, I am.

12 MR. CARLSON: I'm going to object.

13 MR. DAL BON: Why?

14 MR. CARLSON: Well, she's an employee of the  
15 company.

16 BY MR. DAL BON:

17 Q. Okay. Are you an employee of the company?

18 A. Yes, I am.

19 Q. And is Mr. Chen your supervisor?

20 A. Yes.

21 Q. What do you do for the company?

22 A. I am operations finance manager.

23 Q. How long have you worked in that capacity?

24 A. At this position, for about a month.

25 Q. What did you do before?

Page 9

1 A. I was payroll supervisor.

2 Q. How long did you work in that capacity?

3 A. Five months.

4 Q. From when to when?

5 A. From November until the beginning of May.

6 Q. Is that November of 2006?

7 A. Yes. November of 2006 to April 2007.

8 Q. So from April of 2007 to the present you've  
9 been --

10 A. Finance manager.

11 Q. How about before November 2006? What did you  
12 do?

13 A. I was not working for the company between July  
14 of 2006 and November of 2006.

15 Q. Why weren't you working for the company between  
16 that time period?

17 A. I quit for those three months.

18 Q. What was the reason you quit?

19 A. Schedule problems.

20 Q. What type of schedule problems?

21 A. I could not be on the schedule that they wanted  
22 me to.

23 Q. What kind of a schedule did they want you to be  
24 on?

25 A. I needed to be there at 7:30 in the morning,

Page 10

1 and I cannot. I have a baby.  
2 Q. Okay. Child care?  
3 A. Yes.  
4 Q. Before July of 2006, what did you do for them?  
5 A. I worked from August of 2005 -- oh, not August,  
6 sorry -- September of 2005.  
7 Q. To what?  
8 A. Until July of 2006 as office assistant.  
9 Q. What did you do before that, if anything?  
10 A. With the company?  
11 Q. Yeah.  
12 A. Nothing.  
13 Q. So you've not -- was September of 2005 your  
14 first day of work?  
15 A. Yes.  
16 Q. So we have office assistant? All right. You  
17 worked as an office assistant from September of 2005 to  
18 July of 2006; is that correct?  
19 A. Yes.  
20 Q. Can you tell me what your duties were?  
21 A. We are contractors for Comcast, and on that  
22 job, we have paperwork that needs to be checked in every  
23 day. So I checked in all the paperwork for the field  
24 technicians, and I did billing basically on that  
25 paperwork, so invoicing for Comcast and related to that

Page 11

1 was payroll.  
2 Q. So let's back up. You said you checked in  
3 paperwork -- you were contractors for Comcast, and you  
4 checked in paperwork.  
5 What do you mean by checked in paperwork?  
6 A. We have field technicians. They go out to  
7 customers house to complete jobs, and those jobs have  
8 paperwork that needs to be completed. They send that  
9 paperwork back to our company, to Nth Connect, and that  
10 paperwork needs to be checked for completion and  
11 corrections and all the requirements that Comcast wants,  
12 and then it's sent back to Comcast for their files.  
13 Q. So field technicians go out to -- is it  
14 residences?  
15 A. Yes.  
16 Q. They go out to a residence; they do a job,  
17 okay; they complete paperwork?  
18 A. Uh-huh.  
19 Q. And they sent the paperwork back to you?  
20 A. Uh-huh.  
21 Q. What would you check that paperwork for?  
22 A. For customer signature, completion calls, time  
23 frames and make sure that they have all the paperwork  
24 that was assigned to them.  
25 Q. What do you mean all the paperwork? What

Page 12

1 paperwork?  
2 A. Well, they have a route that's assigned to them  
3 every day in the morning. Let's say they have six jobs  
4 assigned for that day. So they have six jobs that need  
5 paperwork to be returned.  
6 Q. So you had a piece of paper with their route on  
7 it, okay?  
8 A. Yes.  
9 Q. And you would make sure that you received  
10 paperwork on each job on their route; is that correct?  
11 A. Yes.  
12 Q. And in their paperwork, you would check for the  
13 customer's signature.  
14 By time frames, did you charge the customer on  
15 an hourly basis?  
16 A. No.  
17 Q. Why were you checking time frames?  
18 A. Because we need to make sure that our  
19 technicians are doing their jobs on time. They have  
20 windows they have to --  
21 Q. So you had an estimate -- the company had an  
22 estimate as to how much time it would take to do a  
23 particular job; is that correct?  
24 A. I have never done that type of estimate, no,  
25 but I did check what time they did their jobs.

Page 13

1 Q. By "check what time they did their jobs," what  
2 do you mean? Would you check when they would enter the  
3 house and leave the house?  
4 A. They had to write down that on the paperwork.  
5 Q. Entry time?  
6 A. Start and stop time of the jobs.  
7 Q. So what would you check that for?  
8 A. Because -- well, that's for billing purposes.  
9 Comcast charges us back for jobs that are not completed  
10 on time.  
11 Q. Oh, okay. Do you remember how long Comcast  
12 gave your technicians to complete a job before they  
13 would start charging back?  
14 MR. CARLSON: Object as vague and ambiguous as  
15 to a job. It assumes there's only one type of job.  
16 BY MR. DAL BON:  
17 Q. You can answer the question if you understand  
18 it.  
19 A. I'm not sure what you're --  
20 Q. Do you recall -- you just testified that  
21 Comcast would charge you folks if the technicians  
22 remained on the job longer than the time that they felt  
23 was appropriate; is that correct?  
24 A. No. That's not correct. They charged us back  
25 if, for example, a job is supposed to be done between

Page 14

1 8:00 and 10:00 a.m. and a technician does not arrive at  
2 the customers house until 10:15, that's when they charge  
3 us back when we're late to start a job. It doesn't  
4 matter how long the job takes.

5 Q. So it didn't matter how long the job would  
6 take?

7 A. No.

8 Q. They wanted these people there at the  
9 prescribed time?

10 A. Yes.

11 Q. Oh, okay. So if you had six jobs in a day, do  
12 you recall the intervals that they were set at? In  
13 general, when would the technician be expected to show  
14 up to his first job, in general?

15 A. Well, in general, the first time frame is  
16 between 8:00 and 10:00. They have to be at the  
17 customer's house anytime between 8:00 and 10:00.

18 Q. In general, how long before they had to be at  
19 the next job; in other words, if he was supposed to be  
20 there at 8:00, would he be expected to be at the next  
21 job at 10:00 or at 9:00?

22 A. It depends on how their route is. We have  
23 various time frames during the day.

24 MR. CARLSON: Hold the next question. I have  
25 to talk to my client real quick. I'll be right back.

Page 15

1 MR. DAL BON: Let the record reflect that the  
2 attorney is leaving with Mr. Chen.

3 (Recess taken.)

4 MR. CARLSON: Okay. You can go back on.  
5 BY MR. DAL BON:

6 Q. So in general, give me an estimate as to if  
7 somebody started a job at 8:00 when would they be  
8 expected to start their next job.

9 A. It depends on what type of job it is. They  
10 have small jobs. They have big jobs. Sometimes a job  
11 takes 15 minutes. Other jobs will take one to  
12 two hours.

13 Q. So on any given route, how many small jobs  
14 would they usually have?

15 A. I don't know. It depends. I cannot give you a  
16 specific answer because it all depends on what type of  
17 jobs Comcast assigns to us on a given day. Sometimes  
18 it's heavier. Sometimes it's lighter. So there's not a  
19 pattern -- a specific pattern.

20 Q. So you would keep track of when the technician  
21 would show up to his first job; is that correct?

22 A. No. What I kept track was how many jobs were  
23 completed on a certain -- late or not so that when we  
24 received a file back from Comcast saying that we have  
25 so-and-so late jobs, we would have somebody else check

Page 16

1 if that was correct or not for charge back basis.

2 Q. No. But you just testified earlier -- I'm a  
3 little confused. You just testified earlier that part  
4 of your job was to check time frames on a daily basis?

5 A. It was to check paperwork, and in the  
6 paperwork, I checked about ten other things, and the --

7 Q. But one of the things was the time frames,  
8 right?

9 A. Yeah.

10 Q. So isn't it true that if you were checking time  
11 frames every day, you were checking to see when they  
12 arrived at their first job? Wouldn't that be included  
13 in the time frames?

14 A. Yes.

15 Q. So part of your job was to check to see when  
16 they arrived at the first job; isn't that correct?

17 A. Yes. Mostly what time they start -- yeah.  
18 Yeah, that's correct. I'm sorry. That's correct.

19 Q. Okay. So that's correct?

20 A. Yes.

21 Q. So you were a little confused earlier. And  
22 then also a part of that job was to check when they  
23 completed their last job, isn't that correct, or at  
24 least when they arrived at their last job?

25 A. Yes.

Page 17

1 Q. Did you keep a record of that, or was the only  
2 record on that paperwork that you received?

3 A. No. It was not on the paperwork. I did not  
4 keep track of it.

5 Q. What would happen when a technician -- what  
6 were you required to do when it became apparent by the  
7 paperwork that a technician arrived to a job late?

8 A. Nothing. We would just be charged back from  
9 Comcast.

10 Q. So you had ten other things that you checked,  
11 okay. What were they?

12 A. Okay. I had to make sure that all the jobs are  
13 from the same date. I have to make sure that all jobs  
14 have customer signature. I have to make sure tags and  
15 ground codes were completed.

16 Q. What's a tag and a ground code?

17 A. Each house has a line for Comcast that goes  
18 into the house, and that line has to be tagged for --  
19 I'm not sure what for exactly -- and ground.

20 Q. So what else?

21 A. Completion codes.

22 Q. What's a completion code?

23 A. It's the codes -- what type of job the  
24 technician did has a certain code that it's going to be  
25 the one that's going to be charged to Comcast.

Page 18

1 Q. Would the completion code tell us whether it  
2 was a long job or a short job?

3 A. Not really because sometimes a video reconnect,  
4 for example -- when you go to a customer's house, and  
5 it's a video reconnect, a technician's going to install  
6 just video services for the customer, but if the  
7 customer has never had service, it would take longer.  
8 If the customer had service before, it would take  
9 15 minutes. So it depends on the job -- on the house,  
10 actually.

11 Q. So in general, the long jobs were new  
12 connections, and the short jobs were --

13 A. Video change of services.

14 Q. Right.

15 A. Right. In general, yes.

16 Q. Would that show up on the paperwork whether it  
17 was a new connection or --

18 A. Yes.

19 Q. So you could look at the paperwork and  
20 determine whether it was a long job or a short job?

21 A. Yes.

22 Q. Ground completion codes, what else?

23 A. Technician signature, and I had to make sure  
24 that all the jobs that were assigned to the specific  
25 technician were returned, either they were completed or

Page 19

1 not. Check if any additional charges to customer have  
2 been added to the customer's account, and that's it.

3 Q. So those are the ten things that you checked on  
4 that?

5 A. Yeah. I'm not sure how many exactly there  
6 were.

7 Q. And that was the paperwork?

8 A. Yes.

9 Q. What else did you do?

10 A. Paperwork, and then based on that paperwork, I  
11 would have a separate copy of -- that paperwork has  
12 white and yellow -- has actually four copies. One's a  
13 white that has to be returned to Comcast. The second  
14 one is a yellow and that's the one we do the invoicing  
15 and billing and payroll from. The pink copy goes to the  
16 customer, and the gold copy goes to quality control.

17 So the check in was -- I never saw the pink  
18 copies because they stay with the customers at the  
19 house. The white copies I would check and send to  
20 Comcast for check in. The yellows are the ones that I  
21 do the billing for, and then I put the gold ones on the  
22 side for the supervisors to do quality control. So  
23 after I was done with the check in, I would go for the  
24 billing.

25 Q. What else would you do?

Page 20

1 A. Separate the gold copies and route them by zip  
2 code to the supervisors to do quality control.

3 Q. Well, we got that. This is fine.

4 A. Okay.

5 Q. But did you have any other job duties outside  
6 of taking care of the white, yellow, the pink and gold?

7 A. The billing that's related to it, and then the  
8 payroll. They're all linked.

9 Q. So let's start with the billing.

10 A. Uh-huh.

11 Q. Billing was the yellow copy, and you're saying  
12 that's related to payroll?

13 A. Yes.

14 Q. What would you do with the yellow copy that was  
15 related to billing?

16 A. I would have the billing completed and entered  
17 into a file on my computer.

18 Q. What do you mean by "billing"? How would you  
19 bill them, the clients?

20 A. Well, the yellow copies, they are all combined  
21 together at a cover sheet, a billing cover sheet that  
22 the technician had to complete, and as I told you, the  
23 completion codes are the ones that I bill for. For  
24 example, so if he has six routes -- six jobs, he does  
25 two video reconnects, two video change of services, I

Page 21

1 would enter on my file that he did two video reconnects  
2 and two video change of services, and that is put on an  
3 Excel spreadsheet into an invoice and into the payroll  
4 as well.

5 Q. Would the technician be paid per completion  
6 code?

7 A. Yes.

8 Q. Was he paid or she paid a certain amount of  
9 money per completion code; in other words, if it said  
10 video reconnect, was he paid a flat fee for a video  
11 reconnect?

12 A. Yes.

13 Q. Can you remember or do you recall what the  
14 technician was paid for per different types of  
15 completion codes?

16 A. Amounts?

17 Q. Yeah.

18 A. There's like 40 different codes.

19 Q. 40 different codes?

20 A. Yes. I know some of them, but not all.

21 Q. So the technician was paid per piece, per code?

22 A. Yes.

23 Q. Who would pay the technician?

24 A. There was -- it was Steven. Most of the time,  
25 when -- in the beginning, they were all contractors, and

Page 22

1 we made the checks inside the company. After about six  
2 months, we started using a payroll company, and they do  
3 the payroll now. They process the payroll.

4 Q. In the beginning, they were all contractors?  
5 When was that?

6 A. August until --

7 Q. Is that August of what year?

8 A. 2005.

9 Q. Until when?

10 A. Until April of 2006.

11 Q. What happened in April of 2006, to the best of  
12 your knowledge?

13 A. Everybody became W-4 employees.

14 MR. DAL BON: Why don't we take a ten-minute  
15 break?

16 (Recess taken.)

17 (At this time, MR. CHEN leaves the deposition  
18 proceedings.)

19 BY MR. DAL BON:

20 Q. So there were 40 different codes?

21 A. That's an estimate. I forgot to tell you.

22 Q. An estimate?

23 A. Yes.

24 Q. And the technicians were paid per code?

25 A. Yes.

Page 23

1 Q. Did you determine how much they were paid per  
2 code?

3 A. No.

4 Q. Were you given like a formula to know how much  
5 to pay them per code; in other words, did you have a  
6 sheet with the codes on it --

7 A. Uh-huh, yes.

8 Q. -- and how much they were to be paid per code?

9 A. Yes.

10 MR. CARLSON: I'm just going to object to this  
11 line of questioning as irrelevant and not calculated to  
12 lead to the discovery of admissible evidence.

13 MR. DAL BON: Well, I would say that the sheet  
14 is admissible evidence if they were working per piece,  
15 which apparently they were, okay?

16 MR. CARLSON: What difference does that make to  
17 your client?

18 MR. DAL BON: Well, I want to take a look at  
19 the codes. I think I want to see the codes and how  
20 much --

21 MR. CARLSON: Why?

22 MR. DAL BON: Because he was paid per code.

23 MR. CARLSON: Who was?

24 MR. DAL BON: My client.

25 MR. CARLSON: No, he wasn't. He was paid

Page 24

1 salary. He was paid as a field supervisor.

2 MR. DAL BON: Okay. All right. Well, let's go  
3 on.

4 MR. CARLSON: Why don't you get to what was  
5 going on with your client?

6 MR. DAL BON: Well, I want to find out what she  
7 knows about payroll. So this is what we're doing.  
8 We're finding out what she knows about payroll, and she  
9 is telling me, okay?

10 MR. CARLSON: If you continue to go into things  
11 that are not irrelevant, I'm going to instruct her not  
12 to answer.

13 MR. DAL BON: Okay. You certainly have that  
14 right.

15 MR. CARLSON: Why don't you ask what things  
16 pertain to your client? These are employees that aren't  
17 in the same position as your client.

18 MR. DAL BON: Okay. Well, I still need to  
19 know.

20 Q. Besides the invoicing and the flat fee and  
21 those types of calculations, what else did you do in  
22 your capacity as an office assistant?

23 A. So that's what I did: Check in, technician's  
24 billing, company's invoicing and payroll.

25 Q. Anything else?

Page 25

1 A. Oh, I kept the personnel files updated.

2 Q. Who?

3 A. Who what?

4 Q. The personnel files of who updated.

5 A. Of the employees.

6 Q. All the employees?

7 A. Yes.

8 Q. How many employees did the company have about?

9 A. At what period of time?

10 Q. The period of time that you kept their  
11 personnel files?

12 A. I still do. From when we started in -- when I  
13 started in September, we had about 30 employees. Today  
14 we have 115.

15 Q. Then in July 2006, you started the new job; is  
16 that correct?

17 A. July of 2006, I quit.

18 Q. Oh, you quit? Okay. Then you came back to  
19 work in November of 2006?

20 A. Yes.

21 Q. Refresh my memory, what did you come back as?

22 A. As payroll supervisor.

23 Q. What were your job duties as payroll  
24 supervisor?

25 A. Same as before, but I did not do check in part.

Page 26

1 We have check in people that do that. I did all the  
2 billing and all the invoicing and all the payroll.

3 Q. Billing, so everything the same, invoicing and  
4 what, payroll?

5 A. And payroll. Except the check in, I don't --  
6 well, I supervise check-ins because we have different  
7 people doing it now, but I don't personally do it every  
8 day -- on a daily basis.

9 Q. And you did that job until when?

10 A. Payroll supervisor?

11 Q. Yeah.

12 A. Until --

13 Q. Recently, right?

14 A. Yeah, April 2007.

15 (Simultaneous speakers.)

16 BY MR. DAL BON:

17 Q. What do you do for the company now? Refresh my  
18 memory.

19 A. I still do that, but I also -- well, I just got  
20 promoted to manager, but I am supposed to be doing all  
21 of the company's finance managing. I haven't got  
22 started, yet, but I do have the title.

23 Q. So you haven't started the finance managing?

24 A. Not yet, no.

25 Q. So are you still essentially doing the same

Page 27

1 thing you did as payroll supervisor?

2 A. Uh-huh.

3 Q. But they've changed your title and --

4 A. Yeah.

5 Q. -- you're making more money. I don't need to  
6 know how much. But you haven't moved on to new duties?

7 A. I haven't, no, not completely.

8 Q. When did you graduate -- did you graduate from  
9 college?

10 A. I am from Brazil. I graduated from the  
11 university there.

12 Q. Sao Paulo?

13 A. No. In Rio.

14 Q. I have relatives in Sao Paulo.

15 What University in Brazil did you graduate  
16 from?

17 A. It's called Federal University of Rio de  
18 Janeiro.

19 Q. When did you graduate?

20 A. 2000. In July of 2000.

21 Q. What did you graduate in?

22 A. Law school.

23 Q. Now, in Brazil, is that an undergraduate  
24 education, or was it a graduate education?

25 A. No. It's a graduate.

Page 28

1 Q. So how long did you spend in graduate school?

2 A. Five years.

3 Q. Did you spend any time -- did you have an  
4 undergraduate education, too?

5 A. No. In Brazil, it's different. You go from  
6 high school straight into university. There is no such  
7 thing as college as there is here. You just go from  
8 high school straight into a university.

9 Q. Well, you do that here to. But as opposed to a  
10 four-year degree, it's a five-year degree?

11 A. Yes. And law school is always a five-year  
12 degree.

13 Q. In law school, did you take any accounting  
14 courses or bookkeeping courses?

15 A. No.

16 Q. Did you take any finance courses?

17 A. No.

18 Q. Solely civil code?

19 A. Yes.

20 Q. It's not common-law there. You graduated in  
21 2000.

22 When did you immigrate to the United States?

23 A. 2001.

24 Q. So did you work between 2000 and 2001?

25 A. No. In Brazil, no. I worked as an intern.

Page 29

1 Q. Where?

2 A. In Brazil.

3 Q. Intern where?

4 A. At the bank, a financial bank. It's called  
5 Development Bank of Brazil. I also worked for -- I  
6 don't know how that would be called here, but it's a  
7 government institution, and it's pretty much like the DA  
8 here.

9 Q. District attorney?

10 A. Yes.

11 Q. So did you work with numbers at the Development  
12 Bank of Brazil? Did you do any accounting, any --

13 A. Not accounting. We worked -- in Brazil I  
14 worked with contracts, but they were contracts of bond  
15 issuing titles.

16 Q. So you did work with some numbers?

17 A. Yes.

18 Q. Was it simple addition and subtraction, or was  
19 it multiplication, any kind of --

20 A. Well, I didn't really work with the numbers. I  
21 worked with the contracts.

22 (Simultaneous speakers.)

23 BY MR. DAL BON:

24 Q. When you came to the United States, what was  
25 your first job here?

Page 30

1 A. I worked at a restaurant.  
 2 Q. Which one?  
 3 A. It's called Mr. Pizza Man in Hayward.  
 4 Q. What did you do there?  
 5 A. I was a waitress.  
 6 Q. How long did you do that?  
 7 A. I did that for about nine months.  
 8 Q. From when to when?  
 9 A. From February of 2001 until October of 2001,  
 10 and then I went back to Brazil.  
 11 Q. How long did you spend in Brazil?  
 12 A. Three months. I went in October, and I came  
 13 back to the U.S. on January -- well, it was  
 14 December 31st of 2001.  
 15 Q. Then did you get another job here?  
 16 A. I worked for the same pizza place, but in a  
 17 different branch, and as a manager.  
 18 Q. Manager?  
 19 A. Uh-huh.  
 20 Q. Did you do payroll there?  
 21 A. Yes.  
 22 Q. Were there hourly employees there?  
 23 A. Yes.  
 24 Q. Did you have to pay them overtime?  
 25 A. Yes.

Page 31

1 Q. What was your understanding of your requirement  
 2 to pay them overtime?  
 3 A. Either more than eight hours a day or more than  
 4 40 hours a week or the seventh day in a row.  
 5 Q. How long did you work as pizza manager?  
 6 A. It was January of 2002 until August of 2004.  
 7 So it's about two and a half years.  
 8 Q. That looks like we're running up against this  
 9 job, right, almost?  
 10 A. No.  
 11 Q. Where did you go next?  
 12 A. I had a baby, and I didn't work for a year.  
 13 Q. So then we're in July of 2005?  
 14 A. That I started working in Nth Connect?  
 15 Q. Yeah.  
 16 A. September 2005.  
 17 Q. So is that your first job after the baby?  
 18 A. Yes.  
 19 Q. So now we've got your work history, your work  
 20 date.  
 21 Do you know the plaintiff in this case,  
 22 Paulo Aranda?  
 23 A. Yes.  
 24 Q. How do you know him?  
 25 A. I knew him before either one of us worked with

Page 32

1 Nth Connect. I was -- we were acquaintances. I was  
 2 friends with his wife.  
 3 Q. Did you go out? Did you -- does your -- you  
 4 and your husband, do they both know Paola and -- I  
 5 mean --  
 6 A. Paulo?  
 7 Q. I'm sorry. I know a Paola.  
 8 Did they both know Paulo?  
 9 A. Yes.  
 10 Q. You both knew Paulo?  
 11 A. Yes.  
 12 Q. Did you go out with him on social occasions?  
 13 A. Yes.  
 14 Q. I don't really care, and I'm not going to get  
 15 too deep into it.  
 16 What type of social events would you guys go  
 17 out on?  
 18 A. Kids' birthdays. They have two kids. They  
 19 have two girls. Friends, pretty much just birthdays,  
 20 and we spent Christmas together once. They spent New  
 21 Year's in my house once. That type of thing.  
 22 Q. Do you still go out with him on social events?  
 23 A. No. We don't go out anymore. But only my  
 24 husband keeps in contact with him.  
 25 Q. Is that because of the lawsuit?

Page 33

1 A. No.  
 2 Q. And again, it doesn't bear much relevance, but  
 3 why don't you go out with him anymore?  
 4 A. Because we were -- basically, she was a friend  
 5 of a friend of mine, and this friend of mine is not in  
 6 the country anymore. So we lost contact.  
 7 Q. What's that friend's name, by the way?  
 8 A. Margarita.  
 9 Q. Does she have a last name?  
 10 A. I believe -- I'm not sure. I believe it's  
 11 Silva.  
 12 Q. Is she Brazilian?  
 13 A. Yes, she is.  
 14 Q. So how did you know -- did you know Paulo when  
 15 he worked at Nth Connect?  
 16 A. Yes.  
 17 Q. I'm no longer concerned about your social  
 18 acquaintance with him. I want to know about your  
 19 business acquaintance now, okay?  
 20 A. Uh-huh.  
 21 Q. Did you have any reason to deal with him at Nth  
 22 Connect in your job?  
 23 A. Yes.  
 24 Q. Why?  
 25 A. I did payroll. And as I told you, I would

Page 34

1 route quality control, and it was one of his duties to  
2 do quality control. And because I did check in, and I  
3 checked technician's paperwork, and those technicians  
4 were under his supervisor, and so if I had any problems  
5 with the technician, I would talk to him so that he  
6 would get it fixed. I did not deal with the  
7 technicians.

8 Q. What was your understanding of Paulo's job  
9 there?

10 A. He was a field supervisor.

11 Q. What did that mean, or did you know?

12 A. It means we have technicians, and we have  
13 supervisors, and the supervisors have the technicians  
14 under their responsibility on quality control,  
15 equipment, job. For example, if a technician doesn't  
16 know how to do a job, but we still need to get it done,  
17 we send it to the supervisor, and the supervisor will do  
18 it. So he did some of the technician's work on occasion  
19 if they couldn't do it. And he did -- I think I said  
20 already -- quality control.

21 Q. So it was your understanding that the  
22 supervisors would sometimes go out and actually do the  
23 technician's job?

24 A. Yes. They'd do what we call go backs. If the  
25 technician goes to a customer's house, and for some

Page 35

1 reason, there's something that he cannot do, then the  
2 supervisor goes and finishes it, or if the customer has  
3 any complaints about the technician, the supervisor goes  
4 there and takes care of the customer.

5 Q. Was the supervisor out in the field; in other  
6 words, was he going from job to job every day, or was he  
7 inside the building?

8 A. Not necessarily. They had their duties, and if  
9 they had to go back to a job, they would, but if they  
10 didn't, they don't have to.

11 Q. Where, in general, would Paulo be?

12 A. Well, he would go -- I don't know exactly his  
13 schedule, but he would go in the office in the morning,  
14 he would assign the jobs to the technicians, which it's  
15 called routing. He would help issuing equipment to the  
16 technicians that the technicians need to complete the  
17 jobs.

18 Q. So he would route?

19 A. Uh-huh.

20 Q. Now, when you say help with equipment, would he  
21 go get the equipment for them; is that your  
22 understanding?

23 A. I don't know if he went to get equipment.

24 Q. Would he assign who got what equipment; is that  
25 the deal?

Page 36

1 A. I don't remember at that time because right now  
2 we have people that do that. I do not remember at that  
3 time if he was the one that did it, or we had somebody  
4 already to do that. I think that occasionally -- I'm  
5 not sure if it was every day, but yes, occasionally he  
6 did.

7 MR. CARLSON: I would just caution the witness,  
8 if you don't know, you don't know is --

9 THE WITNESS: Yeah. I'm not sure.

10 MR. CARLSON: -- the appropriate response.

11 THE WITNESS: Okay.

12 (Simultaneous speakers.)

13 BY MR. DAL BON:

14 Q. But you said occasionally he would go and help  
15 with the equipment?

16 A. What do you mean by help with the equipment?

17 Q. Help load it, lift it.

18 A. I believe so, yes.

19 Q. Was Paulo in the same building with you?

20 A. Yes.

21 Q. Was he in the same office?

22 A. Yes.

23 Q. Did you see him?

24 A. Uh-huh, yes.

25 Q. What kind of an office do you work in? Does

Page 37

1 everybody have closed-door offices, or is it the type  
2 with the dividers?

3 A. I worked in a closed office, and Paulo worked  
4 on a -- outside on a divider with the other supervisors.  
5 We had two at that time.

6 Q. Where was his office in relation to yours?

7 A. It was the next one.

8 Q. What do you mean by next one?

9 A. Well, my office was here, and my office had a  
10 door, and the next one was open, and they had the  
11 dividers there for the two supervisors, and then back  
12 there was the warehouse, so mine and his.

13 Q. When you closed the door, could you see out  
14 into the office building?

15 A. I worked with open doors.

16 Q. But when you closed it, could you see out into  
17 the office building?

18 A. No.

19 Q. So you didn't have a window out into the office  
20 building?

21 A. No, I don't.

22 Q. Did Paulo work behind a divider?

23 A. There wasn't a divider. It was like a table  
24 that would go around, and he had his desk here, and the  
25 other supervisor had his desk there so there wasn't.

Page 38

1 Q. Could you see them through the open door?  
2 A. Well, my door was here. I would have to go  
3 into the walkway and see them.  
4 Q. So you couldn't see them from the open door?  
5 A. No.  
6 Q. Did you spend most of your time in the office?  
7 A. When I was doing check in in the morning and  
8 that usually took me two hours, I was sitting on a big  
9 table that is in --  
10 Q. That's not what I asked you. Listen to my  
11 question.  
12 Did you spend most of your day inside your  
13 office?  
14 A. Yes.  
15 Q. How many hours a day did you work?  
16 A. Six, seven.  
17 Q. From when to when?  
18 A. Monday through Friday.  
19 Q. What time would you get in in the morning, and  
20 what time would you leave in the afternoon?  
21 A. 9:30, and I get off at 4:30, 5:00.  
22 Q. 1:30 in the afternoon?  
23 A. No, 9:30 to 4:30.  
24 Q. Oh, okay. Did you have a break for lunch?  
25 A. Yes.

Page 39

1 Q. How long was your break?  
2 A. It's up to me either half an hour or one hour.  
3 Q. So that's six and a half to -- six hours a day;  
4 is that correct?  
5 A. Yeah. Well, sometimes I would leave at 5:00.  
6 That's why I'm saying between six and seven. I just had  
7 to get my job done, and as soon as I got my job done,  
8 and that was around that time 4:30 or 5:00, I left.  
9 Q. Paid hourly or salary?  
10 A. I was paid in the beginning hourly, and then  
11 after -- I'm not sure, but I believe three months, I got  
12 on salary.  
13 Q. You say you spent the first two hours on a big  
14 table?  
15 A. Uh-huh.  
16 Q. Could you see Paulo on the big table -- from  
17 the big table?  
18 A. Yeah.  
19 Q. So from 9:30 to 11:30 you were out on the table  
20 and --  
21 A. Uh-huh.  
22 Q. -- you could see Paulo?  
23 Then was the rest of your day for the most part  
24 spent in your office?  
25 A. Yes.

Page 40

1 Q. Did you see Paulo in the building the majority  
2 of the time that you were out on the floor from 9:30 to  
3 11:30?  
4 A. He wasn't in the building all day. He would be  
5 in the building in the morning, and then he would leave  
6 to do what he had to do on the field.  
7 Q. So did you know Paulo from the time that you  
8 started work there to the time you finished work there?  
9 A. Yes.  
10 Q. Did you do his paycheck and payroll?  
11 A. Yes.  
12 Q. What was your -- he was a field supervisor, and  
13 what was your understanding as to how he was paid?  
14 A. Salary, weekly.  
15 Q. How was that salary calculated?  
16 A. It was just a weekly salary.  
17 Q. Of what?  
18 A. In the beginning, from August until I believe  
19 October of 2005, it was \$900 a week, and then he got a  
20 raise to 1200 a week, I believe, until January when  
21 he --  
22 Q. So that's from August 2005 to October of 2005?  
23 A. Uh-huh.  
24 Q. Then a raise to \$1200 a week from when?  
25 A. From October and on. That was -- because at

Page 41

1 that time he was full-time supervisor, he would work six  
2 days a week at \$200 a day. In January he --  
3 Q. Hold on. I'm a little confused now.  
4 A. Uh-huh.  
5 Q. Are you saying from August to October of  
6 2005 --  
7 A. Uh-huh.  
8 Q. -- he was working six days a week?  
9 A. Yes.  
10 Q. At 200 --  
11 A. No. Not on the beginning. I'm talking about  
12 the 1200.  
13 Q. At the beginning, was he being paid daily?  
14 (Simultaneous speakers.)  
15 MR. DAL BON: Hold on.  
16 MR. CARLSON: Objection; asked and answered.  
17 MR. DAL BON: No --  
18 MR. CARLSON: Yeah.  
19 MR. DAL BON: -- I didn't ask that.  
20 MR. CARLSON: Yeah, you did. But she said he  
21 was paid weekly, 900 a week. You can read it back if  
22 you want.  
23 MR. DAL BON: I'm asking her a different  
24 question now.  
25 Q. From August of 2005 to October of 2005, was he

Page 42	Page 44
<p>1 paid daily?</p> <p>2 A. No. It was \$900 a week for six days a week.</p> <p>3 Q. So your understanding was that he was expected</p> <p>4 to show up to the job six days a week for \$900 a week?</p> <p>5 A. Yes.</p> <p>6 Q. What would happen if he didn't show up? What</p> <p>7 happened if he only worked five days?</p> <p>8 A. He would still get the \$900.</p> <p>9 Q. You're sure about that?</p> <p>10 A. I'm not sure. I don't -- I didn't work in the</p> <p>11 beginning -- when I started working there, right after</p> <p>12 that, they got the 1200 a week.</p> <p>13 Q. So you started working there when he was making</p> <p>14 1200 a week?</p> <p>15 A. Right after I started.</p> <p>16 Q. Right. How soon after you started?</p> <p>17 A. About a month so that's one or two pay periods.</p> <p>18 Q. Do you know who was doing his checks before</p> <p>19 you?</p> <p>20 A. No.</p> <p>21 Q. Who trained you?</p> <p>22 A. Steven.</p> <p>23 Q. Is he the owner of the company?</p> <p>24 A. Yes.</p> <p>25 Q. So in October of 2005, he was paid \$200 a day</p>	<p>1 raise to 1200 a week, I believe,</p> <p>2 until January when he --</p> <p>3 "Q. So that's from August 2005 to</p> <p>4 October of 2005?</p> <p>5 "A. Uh-huh.</p> <p>6 "Q. Then a raise to \$1200 a week from</p> <p>7 when?</p> <p>8 "A. From October and on. That was --</p> <p>9 because at that time he was</p> <p>10 full-time supervisor, he would work</p> <p>11 six days a week at \$200 a day. In</p> <p>12 January he --</p> <p>13 "Q. Hold on. I'm a little confused</p> <p>14 now.")</p> <p>15 BY MR. DAL BON:</p> <p>16 Q. So to the best of your knowledge, how long was</p> <p>17 he working making 1200 a week?</p> <p>18 A. Until January of 2006.</p> <p>19 Q. What happened in January 2006?</p> <p>20 A. The workload dropped. He became a part-time</p> <p>21 supervisor.</p> <p>22 Q. What was he being paid then?</p> <p>23 A. I don't remember.</p> <p>24 Q. Were you still responsible for his payroll?</p> <p>25 A. Yes.</p>
Page 43	Page 45
<p>1 six days a week, correct?</p> <p>2 A. Uh-huh.</p> <p>3 Q. How long did that last to the best of your</p> <p>4 knowledge?</p> <p>5 MR. CARLSON: I'm going to object as</p> <p>6 mischaracterizes the testimony. She testified he was</p> <p>7 paid 1200 a week.</p> <p>8 MR. DAL BON: No. She said \$200 a day at six</p> <p>9 days a week.</p> <p>10 MR. CARLSON: She said that's the way it was</p> <p>11 calculated.</p> <p>12 THE WITNESS: That's the way it was calculated.</p> <p>13 Just to explain to you what comes on later because he</p> <p>14 became a part-time supervisor, and his salary was</p> <p>15 lowered because he was working less days when he was --</p> <p>16 MR. DAL BON: Can you read back her testimony</p> <p>17 pertaining to this?</p> <p>18 (The record was read as follows by the</p> <p>19 Reporter:</p> <p>20 "Q. How was that salary calculated?</p> <p>21 "A. It was just a weekly salary.</p> <p>22 "Q. Of what?</p> <p>23 "A. In the beginning, from August until</p> <p>24 I believe October of 2005, it was</p> <p>25 \$900 a week, and then he got a</p>	<p>1 Q. So you don't remember the rate that he was paid</p> <p>2 at?</p> <p>3 A. (Witness shakes head.)</p> <p>4 Q. Who would tell you -- who told you how much to</p> <p>5 pay him?</p> <p>6 A. He had a manager, Guilherme.</p> <p>7 Q. What's Guilherme's full name?</p> <p>8 A. The first name is G-U-I-L-H-E-R-M-E; last name,</p> <p>9 Elias, E-L-I-A-S. And Steven, he's the owner.</p> <p>10 Q. Who told you at what rate Mr. Aranda was to be</p> <p>11 paid at?</p> <p>12 A. Steven.</p> <p>13 Q. How much training did you receive on doing the</p> <p>14 payroll from Steven?</p> <p>15 A. A week.</p> <p>16 Q. Did you actually write the checks?</p> <p>17 A. No.</p> <p>18 Q. Who wrote the checks to the best of your</p> <p>19 knowledge?</p> <p>20 A. Steven, and he had an assistant called Eddie.</p> <p>21 It was either one.</p> <p>22 Q. So would you provide the amounts?</p> <p>23 A. Yes.</p> <p>24 Q. Would you calculate the amounts?</p> <p>25 A. Yes, for --</p>

Page 46

1 Q. For Mr. Aranda?  
2 A. No. He was supervisor. He had a flat rate.  
3 Q. But did you calculate how much he was supposed  
4 to be paid?  
5 A. Yes. I sent the calculations.  
6 Q. Did you take out taxes?  
7 A. Until April of 2006, no. They were 1099.  
8 Q. After April of 2006, did you deduct taxes?  
9 A. The payroll company does. I just give the  
10 gross amount.  
11 Q. So before April of 2006, there were no  
12 deductions for taxes?  
13 A. No.  
14 Q. Do you know why?  
15 A. They were 1099.  
16 MR. DAL BON: One second. I'll be right back.  
17 We can go off the record.  
18 (Recess taken.)  
19 MR. DAL BON: I'm going to show this to your  
20 attorney first. Mark this as Plaintiff's Exhibit A.  
21 (Plaintiff's Exhibit A was marked for  
22 identification.)  
23 BY MR. DAL BON:  
24 Q. Do you recognize this document?  
25 A. It is probably a printout of the paperwork.

Page 47

1 Q. Printout of what?  
2 A. The QuickBooks.  
3 Q. The QuickBooks? Is that how payroll was kept  
4 on QuickBooks?  
5 A. Yes.  
6 Q. Do you know how to use QuickBooks?  
7 A. No.  
8 Q. So you would not input this data into  
9 QuickBooks?  
10 A. No.  
11 Q. Who would you give the amount to before you  
12 gave it to the payroll service?  
13 A. Well, when they were 1099 --  
14 Q. Yeah.  
15 A. -- which was from August until April, it was  
16 just Steven. We didn't have a payroll service company.  
17 He would do it.  
18 Q. August to April of 2006?  
19 A. 2006, he would do it out of the QuickBooks.  
20 Q. And you started there in?  
21 A. With the company?  
22 Q. Yeah, September of 2005?  
23 A. Yes. Can I go back on this? This is  
24 probably -- I'm not sure what this is. This is probably  
25 just the bank reconciliation. I'm not sure what this

Page 48

1 is.  
2 Q. The bank reconciliation?  
3 A. Yeah.  
4 MR. CARLSON: Is that an estimate or a guess?  
5 THE WITNESS: It's a guess.  
6 MR. CARLSON: Okay. Let's not guess. Your  
7 answer is, you don't know what it is.  
8 THE WITNESS: Yeah. Okay. Yeah, then that's  
9 that. Sorry about that.  
10 MR. DAL BON: I'm going to show your attorney  
11 this.  
12 MR. CARLSON: Exhibit B?  
13 MR. DAL BON: Yes.  
14 (Plaintiff's Exhibit B was marked for  
15 identification.)  
16 BY MR. DAL BON:  
17 Q. It's dated December 14, 2005 -- which number is  
18 it?  
19 A. December 14th.  
20 Q. So looking at the top of Exhibit A, okay, top  
21 column says: 12/14/2005; and it has a number 3871;  
22 Paulo Aranda; incentives; Union Bank of California;  
23 incentive; and it says minus \$2,100. And then if you  
24 look at Plaintiff's Exhibit B, it appears to be a check  
25 written out to Paulo Aranda on 12/14/2005, and the check

Page 49

1 number 3871 matches the number that was placed into  
2 Exhibit A, and it is for \$2,100, and you were working on  
3 December 14th of 2005 for Nth Connect; is that correct?  
4 A. Yes.  
5 Q. And you were working as the office assistant;  
6 is that correct?  
7 A. Yes.  
8 Q. And did you said earlier that you were  
9 responsible for giving payroll or Mr. Chen in this case  
10 how much Paulo was to be paid; is that correct?  
11 A. Yes.  
12 Q. Do you recall how you had come to this  
13 calculation of \$2,100?  
14 A. Yes.  
15 Q. How did you do that? Can you explain it to me?  
16 A. He made \$1200 a week, but Steven had bought a  
17 car for him, and he was repaying Steven back \$300 every  
18 payroll. So it was 2400 for two weeks minus 300 for the  
19 car payment.  
20 Q. So this represents two weeks?  
21 A. Uh-huh.  
22 Q. At \$2,400?  
23 A. Uh-huh.  
24 Q. Minus a \$300 car payment?  
25 A. Yes.

Page 50

1 MR. DAL BON: I am going to go ahead and let  
2 your attorney look at this one.

3 MR. CARLSON: Exhibit C?

4 MR. DAL BON: Yes.

5 (Plaintiff's Exhibit C was marked for  
6 identification.)

7 BY MR. DAL BON:

8 Q. This, like the previous check, looks like it  
9 was a payroll check written to Paulo Aranda, and if you  
10 look at the second column, it says: 12/01/2005; Paulo  
11 Aranda; incentives; incentive; \$1,700, for the second  
12 column on Exhibit A, and it's check number 3819, and  
13 this is check number 3819 for \$1,700.

14 Did you calculate this check?

15 A. Probably, yes.

16 Q. Do you recall how you came to this calculation  
17 of \$1,700?

18 A. It's an estimate. I believe he had a cash  
19 advance. He always had cash advances.

20 Q. So what kind of a cash advance would he have on  
21 this check?

22 A. It would be 400.

23 Q. 400?

24 A. Yeah.

25 Q. Does this represent a certain pay period?

Page 51

1 A. Yes.

2 Q. What is the pay period this represents?

3 A. It says on the bottom 11/19 to 11/26.

4 Q. So that would have been one week; is that  
5 correct?

6 A. No. It's week ending 11/19 and week ending  
7 11/26. So it was the Sunday, the previous Sunday from  
8 11/19.

9 Q. So how many days does this represent?

10 A. This is two weeks.

11 Q. And that's 14 days?

12 A. That's 14 days, yes.

13 Q. You're saying that this represents his payment  
14 for 14 days --

15 A. Yes.

16 Q. -- minus a \$500 or \$400 cash advance, correct?

17 A. I am not sure about that, yes. He was one of  
18 the employees that had cash advances often.

19 MR. CARLSON: And the car as well?

20 THE WITNESS: And the car as well, yes.

21 MR. CARLSON: So it's 700.

22 THE WITNESS: Yeah, that's 400 for --

23 BY MR. DAL BON:

24 Q. Well, let's start with the car. Do you know  
25 who kept a record of that?

Page 52

1 A. Steven did.

2 Q. Where are those records?

3 A. I don't know.

4 Q. Do you know whether Steven would pay him by  
5 check or by cash?

6 MR. CARLSON: I'm sorry.

7 BY MR. DAL BON:

8 Q. For the car, you're saying he bought him a car,  
9 right?

10 MR. CARLSON: Do you know?

11 THE WITNESS: No. He bought a car. That's all  
12 I know.

13 BY MR. DAL BON:

14 Q. Do you know whether he was paid -- whether  
15 Mr. Aranda was paid by check or cash?

16 A. Mr. Aranda?

17 Q. Yeah.

18 A. No. Steven bought a car for Paulo. He  
19 financed a car for Paulo. Paulo was repaying Steven for  
20 the car.

21 Q. So you're saying that it was your understanding  
22 then that Steven bought the car out of what money? Out  
23 of Nth Connect money?

24 A. I don't know.

25 MR. CARLSON: Object as irrelevant but --

Page 53

1 MR. DAL BON: No. It is relevant.

2 MR. CARLSON: -- go ahead.

3 MR. DAL BON: This has to do with his pay.  
4 There were deductions made for his pay. This is  
5 extremely relevant to the case.

6 MR. CARLSON: Whatever agreement they had, they  
7 had.

8 MR. DAL BON: It is completely relevant. It  
9 has to do with his pay.

10 MR. CARLSON: If she knows.

11 MR. DAL BON: Well, that's what we're asking.

12 Q. You're saying that in December 14th, 2005 the  
13 \$2,100 check represents his full pay minus \$300 for a  
14 car payment, okay?

15 A. Yes.

16 Q. It was your understanding that Steven Chen  
17 bought my client a car and financed it?

18 A. Yes.

19 Q. Do you know -- you did the payroll, and this  
20 certainly has two to do with how much this person makes  
21 on payroll -- do you know how Mr. Chen paid for the car?  
22 Whether he paid -- in other words, did he pay Paulo?  
23 Did he give him a check for the car, or did he pay for  
24 the car directly?

25 MR. CARLSON: If you know.

Page 54

1 THE WITNESS: I don't know. I don't know.  
 2 BY MR. DAL BON:  
 3 Q. You don't know. Do you remember who told you  
 4 to take \$300 out of the check?  
 5 A. Steven did.  
 6 Q. Did he show you any documents?  
 7 A. No.  
 8 Q. He just said take \$300 out of this check?  
 9 A. Yes.  
 10 Q. Let's go now to the cash advance that's  
 11 December 1st of 2005, okay. You're saying that  
 12 Mr. Paulo was one of those employees who would get cash  
 13 advances.  
 14 So you did payroll and this cash advance is  
 15 being taken against his payroll. Do you know how he  
 16 would get the cash advance?  
 17 A. From Steven, a check from Steven.  
 18 Q. So Steven would write him a check?  
 19 A. Yes.  
 20 Q. In his name? In Paulo's name?  
 21 A. Paulo's name.  
 22 Q. Do you know whether that check would come out  
 23 of Nth Connect Telecom?  
 24 A. Yes, it would.  
 25 Q. Would you be the one that would fill the check

Page 55

1 out for him?  
 2 A. No.  
 3 Q. So how did you know that Steven had written a  
 4 check for Paulo and to deduct, you said, \$400 from his  
 5 pay on December 1st, 2005?  
 6 A. This check has two stubs -- one is for the  
 7 employee; one is for company record. The one that is  
 8 for company record would say at the top cash advance for  
 9 how much, date, payable in certain amount, in two  
 10 installments or one installment, and the employee would  
 11 sign on it.  
 12 Q. So the company should have a record of those  
 13 stubs, right?  
 14 A. Yes.  
 15 Q. If we asked for all documents relating to  
 16 payroll, those documents, those stubs, would relate to  
 17 payroll, correct?  
 18 A. Yes.  
 19 Q. Do you know whether the company -- do you know  
 20 where the company keeps those records?  
 21 A. The personnel files.  
 22 Q. In the personnel files?  
 23 A. Uh-huh.  
 24 Q. So this would be in Mr. Aranda's personnel  
 25 file?

Page 56

1 A. It should be, yes.  
 2 MR. DAL BON: So this is D.  
 3 MR. CARLSON: By the way, are you going to go  
 4 through every check?  
 5 MR. DAL BON: Possibly. Until I understand  
 6 exactly what is going on with these checks.  
 7 MR. CARLSON: Well, if you decide you are going  
 8 to do that, why don't you mark them all, and then you  
 9 can just fly through them. You don't have to mark each  
 10 individual one. Maybe the next Exhibit E should be the  
 11 rest of the checks.  
 12 MR. DAL BON: You want me -- can I do a group  
 13 exhibit? Is that all right with you?  
 14 MR. CARLSON: That's fine with me. Whatever  
 15 gets us through this quicker if that's what you're going  
 16 to do. If you're not going to ask about every check,  
 17 then there's no need for it.  
 18 MR. DAL BON: Here's D.  
 19 (Plaintiff's Exhibit D was marked for  
 20 identification.)  
 21 BY MR. DAL BON:  
 22 Q. This check is dated November 17th, 2005. It  
 23 looks like it's check number 3758.  
 24 Do you recall whether you calculated this  
 25 check?

Page 57

1 A. I don't remember every single check.  
 2 Q. I know. But I'm asking you about this  
 3 particular check.  
 4 A. I don't remember.  
 5 Q. You do not remember?  
 6 A. No.  
 7 Q. Does this also represent a pay period of two  
 8 weeks?  
 9 A. Yes.  
 10 Q. Was he making \$1200 a week at that point?  
 11 A. Yes.  
 12 Q. So the check should have been -- if he was  
 13 making \$1200 a week, it should have been for \$2,400,  
 14 right?  
 15 A. (Witness nods head.)  
 16 Q. And you don't remember why you wrote this  
 17 particular check out for \$1,800?  
 18 A. I don't remember.  
 19 Q. But there should be a record in his personnel  
 20 file or somewhere of the \$600 deduction from the check,  
 21 correct?  
 22 A. Yes.  
 23 MR. DAL BON: Then why don't we mark these  
 24 Group Exhibit E.  
 25 (Plaintiff's Exhibit E was marked for

Page 58

1 identification.)  
 2 BY MR. DAL BON:  
 3 Q. Let's start with the top check on Group Exhibit  
 4 E. There's a Bate stamp number of NC0044, and it's  
 5 check number 34 -- looks like 3435, dated September 9th,  
 6 2005, and it is for \$1,500.  
 7 Do you see that check?  
 8 A. Uh-huh.  
 9 Q. Does this cover another two-week time period?  
 10 A. I don't know. I wasn't working there, yet.  
 11 Q. You weren't working there, yet. Let's go to  
 12 the next check. This one is NC0045 and is dated  
 13 September 23, 2005.  
 14 Were you working there at that point?  
 15 A. Yes.  
 16 Q. Okay. And this check is for \$1,800.  
 17 Does this, to the best of your knowledge, cover  
 18 a two-week period?  
 19 A. Yes.  
 20 Q. Would he have been making \$900 a week during  
 21 that period?  
 22 A. Uh-huh.  
 23 Q. So this would have been a full paycheck?  
 24 A. Uh-huh.  
 25 Q. Let's go to the next one and that one is dated

Page 59

1 October 5, 2005, and it is for \$1,300; is that correct?  
 2 A. Yes.  
 3 Q. Would this have been for a two-week period?  
 4 A. I don't know.  
 5 Q. You don't know. Do you recognize this  
 6 signature on these checks?  
 7 A. Uh-huh.  
 8 Q. Whose signature is that?  
 9 A. It's Steven's.  
 10 Q. But to the best of your recollection, in this  
 11 period, he was making, what, \$900 a week?  
 12 A. I'm not sure. I don't know if he had a raise  
 13 already at this time.  
 14 Q. So this is 1300.  
 15 A. Uh-huh.  
 16 Q. Let's go to the next check, and that is  
 17 October 6th, 2005, and that says \$500. And it says down  
 18 below week of 9/24 -- it looks like -- to 10/03/05. It  
 19 says cash advance, \$500.  
 20 Would this be a cash advance?  
 21 A. Uh-huh.  
 22 Q. Let's go to the next check, and this one is --  
 23 this is 10/19/05.  
 24 Would that have been for a two-week period?  
 25 A. I don't know. There is no description at the

Page 60

1 bottom.  
 2 Q. This is for \$2,300?  
 3 A. Yeah.  
 4 Q. Would he have been making \$1200 a week by then?  
 5 A. I don't know. I know it was sometime in  
 6 October. I'm not sure of the date.  
 7 Q. Were you still being trained by Steven in  
 8 October of '05?  
 9 A. No.  
 10 Q. So you wrote this check on your -- you put the  
 11 calculations for this check on your own, correct?  
 12 A. I was told what calculation to put on his  
 13 check.  
 14 Q. Who were you told by?  
 15 A. By Steven because he had cash advances and the  
 16 car payments.  
 17 Q. So is it true that Steven would be the one to  
 18 make the calculations as to how much Mr. Aranda would  
 19 make?  
 20 A. Yes.  
 21 Q. Every two weeks?  
 22 A. Uh-huh.  
 23 Q. Is it true that really you didn't do the  
 24 calculations?  
 25 A. On supervisors, no. I did on technicians.

Page 61

1 Q. So it was Steven that did the calculations?  
 2 A. On supervisors, yes.  
 3 Q. Was he, Paulo, a supervisor?  
 4 A. Yes.  
 5 Q. So did Steven do all the calculations --  
 6 A. Yes.  
 7 Q. -- for these checks?  
 8 A. Uh-huh.  
 9 Q. Did he report to you how much you were to write  
 10 the checks out for?  
 11 A. He would -- yeah, he would send to me.  
 12 Q. How would he sends that to you?  
 13 A. He would either tell me, or he would put on the  
 14 file itself. We share the file, the payroll file.  
 15 Q. So in the payroll file, there should be some  
 16 notations; is that correct?  
 17 A. Yes.  
 18 Q. Okay. Written by Mr. Chen; is that correct?  
 19 A. Yes.  
 20 Q. Do you know whether they still have that  
 21 payroll file?  
 22 A. I don't know.  
 23 Q. Do you know where that payroll file would be  
 24 located?  
 25 A. In one of the company computers.

Page 62

1 Q. So would there be a paper record of it?  
2 A. No. It was made out of the computer.  
3 Q. So would he put a notation in the company  
4 computer?  
5 A. Yes.  
6 Q. Do you know what computer program he used to do  
7 that?  
8 A. Excel.  
9 Q. So there is an Excel spreadsheet in the company  
10 computer?  
11 A. Uh-huh.  
12 Q. When you say he would put a notation in the  
13 file, you mean he would put a notation in the Excel  
14 spreadsheet?  
15 A. Yes.  
16 Q. He wouldn't handwrite anything?  
17 A. No. Oh, I don't know, to be honest, if he  
18 would handwrite.  
19 Q. So then we have got another check on the next  
20 page is Bates stamped 0049, and it is for \$2,300.  
21 Do you know how that calculation came about?  
22 A. No.  
23 Q. Let's move to the next check number NC0050, and  
24 that is for \$500, cash advance for weekend November 12,  
25 2005.

Page 63

1 A. Uh-huh.  
2 Q. Do you know how that check was calculated?  
3 A. It was just a cash advance.  
4 Q. And whose signature is that?  
5 A. That is Steven's.  
6 Q. And then we have the final page here NC0051?  
7 A. I don't have it -- Oh, it's this one?  
8 Q. Are we back to Exhibit A?  
9 A. D.  
10 MR. DAL BON: Oh, Exhibit D. We already went  
11 over that. Let's do another group exhibit. I'm going  
12 to hand this. This will be Group Exhibit F.  
13 (Plaintiff's Exhibit F was marked for  
14 identification.)  
15 BY MR. DAL BON:  
16 Q. So now we're looking at Group Exhibit F, and  
17 we're looking at the top of it, and there is a check  
18 that is Bates stamped NC0055?  
19 A. Uh-huh.  
20 Q. Do you see that?  
21 A. (Witness nods head.)  
22 Q. Do you know whether Mr. Aranda was working part  
23 time as of the date of this check, January 12th, 2006?  
24 A. I believe so.  
25 Q. And do you see the number here \$568.75?

Page 64

1 A. Uh-huh.  
2 Q. The date is January 12, 2006?  
3 A. Uh-huh.  
4 Q. Do you know how that check was calculated?  
5 A. That's an estimate. I believe he had some  
6 field install work on this pay period because he was  
7 doing part-time supervisor. I'm not sure how many days  
8 a week he worked as a supervisor. The two or three days  
9 that he had left, he would do installs.  
10 Q. How was he paid when he worked part time?  
11 A. I don't remember how many days he worked, but  
12 he had a salary as well at that time for the days that  
13 he worked as a supervisor.  
14 Q. What was the salary?  
15 A. I don't remember.  
16 Q. When you say "salary," what do you mean by  
17 salary? Was it a daily salary?  
18 A. No. It was a fixed rate for the week.  
19 Q. A fixed rate?  
20 A. Yeah. He would have some days of the week -- I  
21 don't know what his schedule was -- that he worked as a  
22 supervisor. The rest of the days he would do installs.  
23 Q. So when he went part time, he worked some days  
24 of the week as a supervisor and other days of the week  
25 as an installer?

Page 65

1 A. Yes.  
2 Q. When he worked as an installer, was he paid  
3 like the other installers were paid?  
4 A. Yes.  
5 Q. Was he paid per piece?  
6 A. Yes.  
7 Q. Was he paid per code?  
8 A. Yes.  
9 Q. So that is relevant to his pay?  
10 A. Uh-huh.  
11 Q. Then when he worked as a supervisor, he was  
12 paid a salary?  
13 A. Yes.  
14 Q. Do you recall -- during this time period of  
15 roughly around the time of January 12th, 2006, do you  
16 recall how many days a week he was supposed to be  
17 working as a supervisor?  
18 A. No. I'm not in charge of schedule.  
19 Q. But you were in charge of payroll?  
20 A. Yes.  
21 Q. You were in charge of at least calculating his  
22 payroll --  
23 A. Yes.  
24 Q. -- as it pertains to the piece work?  
25 A. Uh-huh.

Page 66

1 Q. Then adding it onto the salary?  
 2 A. Uh-huh.  
 3 Q. You're saying you can't remember how much the  
 4 salary was?  
 5 A. No. I don't remember.  
 6 Q. But the piece work was per --  
 7 A. Per job.  
 8 Q. -- per job?  
 9 And would there be a record --  
 10 A. Yes.  
 11 Q. -- of that piece work?  
 12 A. Uh-huh.  
 13 Q. Do you know whether they have a record of that  
 14 right now?  
 15 A. It's the same file. The Excel spreadsheet for  
 16 the payroll, it's all one file.  
 17 Q. It's all one file. It's all in that Excel  
 18 spreadsheet?  
 19 A. Yes.  
 20 Q. So if we requested payroll records, we should  
 21 get a copy of that Excel spreadsheet?  
 22 A. Yes.  
 23 Q. That would tell us really how much he was being  
 24 paid; is that correct?  
 25 A. Yes.

Page 67

1 MR. CARLSON: Well, the check will tell you how  
 2 much he was being paid as well. I mean, you're  
 3 saying for getting --  
 4 THE WITNESS: Detail.  
 5 MR. CARLSON: -- other detail other than  
 6 this --  
 7 MR. DAL BON: No. This isn't telling me  
 8 anything.  
 9 MR. CARLSON: You said it would tell you how  
 10 much he's being paid, and this check tells you how much  
 11 he's being paid.  
 12 MR. DAL BON: No, it doesn't.  
 13 MR. CARLSON: It doesn't?  
 14 MR. DAL BON: No.  
 15 MR. CARLSON: It's an amount of money. What  
 16 else was he paid?  
 17 MR. DAL BON: But we don't know how they came  
 18 about that amount?  
 19 MR. CARLSON: Then you're asking a different  
 20 question. You're asking a question of you want  
 21 something that shows a description of a breakdown.  
 22 MR. DAL BON: But based on this check, okay,  
 23 she's saying he possibly got cash advances; she's saying  
 24 he possibly -- the owner was paying for his car. So we  
 25 don't really know, based on this check, how much he was

Page 68

1 being paid.  
 2 MR. CARLSON: Based on this check.  
 3 MR. DAL BON: Yeah. Based on any of these  
 4 checks --  
 5 MR. CARLSON: That's not correct.  
 6 MR. DAL BON: -- well, very few of them. We  
 7 need the Excel spreadsheet to see how much he was being  
 8 paid if those --  
 9 MR. CARLSON: I'm happy to talk to my client  
 10 and see what he has.  
 11 MR. DAL BON: -- if those deductions were being  
 12 taken out of these checks.  
 13 BY MR. DAL BON:  
 14 Q. To the best of your knowledge because you were  
 15 calculating the salary of Mr. Aranda during this period,  
 16 how many days a week did he work as a supervisor?  
 17 A. I don't know.  
 18 Q. Do you remember whether it was a fixed number  
 19 of days?  
 20 A. Yes.  
 21 Q. So it wouldn't fluctuate from week to week?  
 22 A. I don't think so. I'm not sure.  
 23 Q. You're not sure?  
 24 A. As I told you, I didn't do his schedule.  
 25 Q. Who did his schedule?

Page 69

1 A. His manager.  
 2 Q. That was who?  
 3 A. Guilherme.  
 4 Q. So if we deposed Guilherme, he would be able to  
 5 tell me that to the best of your knowledge?  
 6 A. I don't know. You would have to ask him.  
 7 Q. But he did the schedule?  
 8 A. Yes, he did.  
 9 Q. So he would know doing the schedule?  
 10 A. I believe so. I believe so.  
 11 Q. So was it your understanding that Mr. Aranda  
 12 got paid a fixed rate for a fixed number of days a week  
 13 during this period?  
 14 A. Yes.  
 15 Q. It was Mr. Chen who told you how much to pay  
 16 him at the fixed rate?  
 17 A. Yeah. At a fixed rate, yes.  
 18 Q. How long did that go on for?  
 19 A. I believe two or three months.  
 20 Q. From when to when?  
 21 A. January of 2006 until March of 2006.  
 22 Q. So let's look at the next check.  
 23 THE WITNESS: Can I use the restroom real  
 24 quick, please?  
 25 MR. DAL BON: Absolutely.

Page 70

(Luncheon recess taken: 12:02 p.m.)

Page 72

A. Uh-huh. Yes.

Q. February 9th, 2006, it's the next page, and NC0058, and that says \$2,100?

A. Uh-huh.

Q. Do you know how that was calculated?

A. This looks like a salary only.

Q. Salary only?

A. It looks like it.

Q. Do you remember?

A. I don't remember.

Q. So was he making \$2100 every two weeks during that period?

A. I don't remember.

Q. Who would have given you the salary amount?

A. Steven did.

Q. Let's go to the next one?

A. Uh-huh.

Q. That is NC0059, February 23rd, 2006. The check is made out for \$1,300?

A. Uh-huh.

Q. Do you know how that amount was combined?

A. I don't remember.

Q. Let's go to the next one. And that is dated March 9th, 2006, and that says \$776.

Do you know whose signature that is in the

Page 71

# AFTERNOON SESSION

(1:22 p.m.)

(Plaintiff's Exhibit G was marked for identification.)

MR. DAL BON: Can you repeat back the last question?

(The record was read back as follows by the Reporter:

"Q. How long did that go on for?

"A. I believe two or three months.

"Q. From when to when?

"A. January of 2006 until March of 2006.

"Q. So let's look at the next check.")

BY MR. DAL BON:

Q. Looking at a Group Exhibit F, and we're two pages in. It says January 26th, 2006 that's the date on the check. It's Bates stamp number is NC0057, and it's made out to Paulo Aranda, and the amount is 1968.

Do you know how that check was calculated?

A. No, I don't.

Q. Was that a period where he was working as a manager and a piece worker?

A. Supervisor, I believe so, yes.

Q. Supervisor and a piece worker, right?

Page 73

corner?

A. That's Eddy Wang.

Q. Eddy Wang, what is his position with the company?

A. He was Steven's assistant, I believe.

Q. I take it he had the authorization to sign checks?

A. Yes, he did.

Q. And this is for \$776. Do you know how that check was calculated?

A. No. I don't remember.

Q. We have March 9th, 2006, and it's for \$200.

Do you know how that check was calculated?

A. No.

Q. Let's go to the next one. Another one for \$200, dated March 10th. We're at NC0062.

Do you know how that check was calculated?

A. No.

Q. Let's go to NC0063, March 23rd, 2006, and that is for \$327.25.

Do you know how that check was calculated?

A. No.

MR. CARLSON: Do you want to have her just look through the rest of it, and we can --

MR. DAL BON: No. Let's go through them one by

Page 74

1 one.

2 MR. CARLSON: Whatever.

3 BY MR. DAL BON:

4 Q. Let's go to the next one, and this is  
5 March 23rd, 2006, and this one is for \$1250.

6 Do you know how that check was calculated?

7 A. No. I don't remember.

8 Q. Do you know how he was being paid at that  
9 point?

10 A. I'm not sure.

11 MR. CARLSON: I'm going to object as vague and  
12 ambiguous as to the term "how he was being paid," the  
13 phrase rather.

14 (Telephone interruption.)

15 BY MR. DAL BON:

16 Q. On March 23rd, 2006, okay, do you recall  
17 whether he was being paid a salary or whether he was  
18 part time or a piece worker?

19 A. He always had a salary. I don't remember if he  
20 was full time or part time still. I don't remember.

21 Q. April 6, 2006, this one is for \$97. Do you  
22 know what that check was for?

23 A. No.

24 Q. Let's go to the next one, again, April 6, 2006,  
25 this one is for \$1600.

Page 75

1 Do you know what that check was for?

2 A. This one, I believe, was for full-time  
3 supervisor, \$800 a week if I recall.

4 Q. So did they change his rate of pay?

5 A. No, no, no. He wasn't full time. He was still  
6 part-time supervisor, but he didn't do piece work  
7 anymore. He was working a different system.

8 Q. So he wasn't doing piece work by April of 2006?

9 A. No.

10 Q. What was he doing?

11 A. He was a supervisor, but he was working at a  
12 different system, and we did not have a full schedule  
13 there.

14 Q. So he was not working full time?

15 A. No.

16 Q. By "different system," what do you mean?

17 A. I mean, he originally started working in South  
18 Bay, which means San Jose. At this time, I believe he  
19 was already working in Richmond which is East Bay.

20 Q. Do you know what his salary was at that time?

21 A. I'm not sure. Maybe --

22 Q. Do you know how -- go ahead.

23 A. -- 800 a week or \$850 a week, either one.

24 Q. Do you know how many days a week he worked?

25 A. No.

Page 76

1 Q. Do you know whether they deducted money from  
2 his weekly paycheck, his biweekly paycheck, if he missed  
3 a day from work?

4 A. No. I don't know.

5 Q. You don't know that?

6 A. (Witness shakes head.)

7 Q. Who would know that?

8 A. Steven.

9 Q. The next one is dated April 20th, 2006, and it  
10 says \$322.50.

11 Do you know what that check was for?

12 A. No.

13 Q. Let's go to the next one. NC0068, it's  
14 April 20, 2006. It is for \$1600.

15 Do you know what that check was for?

16 A. It looks like his salary only.

17 Q. Looks like a salary?

18 A. Uh-huh.

19 Q. Do you know whether it's a salary?

20 A. I'm not sure.

21 Q. Who would know?

22 A. We have it on our files.

23 Q. You have it on your files?

24 A. Uh-huh.

25 Q. So it's written somewhere in the files whether

Page 77

1 or not he had a salary; is that correct?

2 A. Yes.

3 Q. What's it written as? Does it say --

4 A. As salary.

5 Q. Does it say salary?

6 A. Yes.

7 Q. Where would that be?

8 A. On the Excel spreadsheet I told you about.

9 Q. On the Excel spreadsheet?

10 A. Uh-huh.

11 Q. May 5th, 2006, NC0069, and that's \$1112.49.

12 Do you know what that check is for?

13 A. With this kind of check, this has taxes taken  
14 out of it. So this is not the gross amount that he got  
15 paid.

16 Q. So do you know what he was being paid at this  
17 point in May of 2006?

18 A. I don't remember.

19 Q. And there would be a deduction?

20 A. I don't know.

21 Q. At this point, who was doing the deductions  
22 from the checks?

23 A. It was still the same. I was doing the  
24 payroll. Steven would give me the amounts to pay and  
25 the amounts to deduct.

Page 78

1 Q. Where was the record of that kept at this  
2 point?

3 A. At this point, we have it on the payroll  
4 company's system. It would have the salary rate and the  
5 deductions and then the taxes taken out. This is the  
6 check. The check stub which goes to the employee has  
7 all the information, and also the payroll company should  
8 have it.

9 Q. So at this point, the information is no longer  
10 in the Excel spreadsheet, or to the best of your  
11 knowledge -- I shouldn't say that.

12 At this point, there is at least a record with  
13 the payroll company, right?

14 A. Yes.

15 Q. And there is a record that goes to the  
16 client --

17 A. Yes.

18 Q. -- I mean the employee?

19 A. Uh-huh.

20 Q. So is it fair to say that -- I'm going to skip  
21 because these look like two more payroll checks, and I'm  
22 going to go to one dated 6/12/06. It says Union Bank,  
23 and it's 0072.

24 Do you know what this check is for?

25 A. It says cash advance on the bottom.

Page 79

1 Q. Would you have filled in the amount?

2 A. No.

3 Q. Let's go to the last check NC0076, and that  
4 says \$1,144.50.

5 A. Uh-huh.

6 Q. Do you know what this check is about?

7 A. Looks like his final paycheck. That's what it  
8 says at the bottom: Final gas reimbursement and  
9 paycheck.

10 Q. Did you make this check out?

11 A. No.

12 Q. Did you make the calculations for this check?

13 A. No, I did not. Because this was his final  
14 check, and he had some type of arrangement with Steven  
15 regarding the car?

16 Q. Now, earlier, you had -- at any time when Mr.  
17 Aranda was paid a salary, do you know whether or not  
18 money was deducted from that salary if he missed a day  
19 from work?

20 MR. CARLSON: Objection; asked and answered.  
21 Don't answer it again.

22 MR. DAL BON: Well, no. She's --

23 MR. CARLSON: We're done with that question.

24 MR. DAL BON: I'm sorry.

25 MR. CARLSON: You have asked it five times.

Page 80

1 MR. DAL BON: No. She's given conflicting  
2 answers. She just answered --

3 MR. CARLSON: You have asked the question five  
4 times.

5 MR. DAL BON: No, I haven't.

6 MR. CARLSON: You have.

7 MR. DAL BON: This is the third time.

8 MR. CARLSON: You just asked it again one  
9 minute ago --

10 MR. DAL BON: I asked --

11 MR. CARLSON: -- she said she didn't know.

12 MR. DAL BON: -- I asked it about that  
13 particular pay period. Earlier, she said that when he  
14 was making \$1200 every week --

15 MR. CARLSON: She said she didn't know. You  
16 can read back the transcript if you want. She said she  
17 didn't know.

18 (Sotto voce discussion.)

19 MR. DAL BON: Okay. She gave conflicting  
20 testimony. And you're not going to let her answer again  
21 so that we can clarify?

22 MR. CARLSON: She can answer it again.

23 MR. DAL BON: Okay.

24 Q. Do you know whether anytime, okay, that Mr.  
25 Aranda was paid a salary whether or not money was

Page 81

1 deducted from that salary if he missed a day from work?

2 A. I don't know. I was just given the amounts  
3 that he was supposed to be paid for.

4 Q. Let's look at Exhibit G, and I'm going to ask  
5 you to go to page number 4?

6 MR. CARLSON: Page 4?

7 MR. DAL BON: Yeah.

8 BY MR. DAL BON:

9 Q. Request Number 2, the complete Request Number 2  
10 reads, requesting: "The complete payroll records  
11 showing the payments made to plaintiff each pay period."

12 MR. CARLSON: Is there a definition of  
13 "records" anywhere?

14 MR. DAL BON: Probably earlier.

15 MR. CARLSON: Where?

16 MR. DAL BON: In the preamble.

17 MR. CARLSON: I don't have that here. You  
18 didn't give that to us.

19 MR. DAL BON: Well, I don't know because I  
20 didn't write this.

21 MR. CARLSON: This is just our response. My  
22 question is, do you have a definition of "records" so --  
23 obviously, you're trying to figure out whether we have  
24 fully responded to this.

25 MR. DAL BON: Right.

Page 82

1 MR. CARLSON: I can't tell without seeing  
2 your --  
3 MR. DAL BON: I have a definition. Any payroll  
4 records, complete payroll records.  
5 MR. CARLSON: Objection; vague and ambiguous;  
6 and unintelligible.  
7 MR. DAL BON: Okay. You have made your  
8 objection.  
9 Q. Request 2: "The complete payroll records  
10 showing the payments made to plaintiff each pay period."  
11 Would that include the Excel spreadsheet?  
12 MR. CARLSON: I'm going to object as calls for  
13 a legal conclusion --  
14 MR. DAL BON: No. I'm asking her --  
15 MR. CARLSON: Let me finish. It calls for a  
16 legal conclusion; beyond the scope of this witness'  
17 testimony. If you have a personal opinion, you can give  
18 it. If you don't, tell him you don't know.  
19 THE WITNESS: I don't know.  
20 BY MR. DAL BON:  
21 Q. But the Excel spreadsheet is the only document  
22 that shows the deductions that were made from Mr.  
23 Aranda's check for alleged cash advances, for alleged  
24 payments for car; is that correct?  
25 A. I don't think it's the only one. The check

Page 83

1 stubs that goes with the checks should have that  
2 description as well.  
3 Q. Even the earlier checks?  
4 A. Uh-huh.  
5 Q. So if we don't have those, we don't have the  
6 complete records?  
7 A. Paulo should have them. The check stubs go to  
8 the employee.  
9 Q. But if we weren't given them by the defendants,  
10 we do not have the complete records? They did not give  
11 us the complete records?  
12 MR. CARLSON: Given what?  
13 MR. DAL BON: The pay stubs and the Excel  
14 spreadsheet.  
15 MR. CARLSON: She just said he has it; we  
16 don't.  
17 THE WITNESS: We don't keep the pay stubs.  
18 BY MR. DAL BON:  
19 Q. So you don't keep the pay stubs?  
20 A. No.  
21 Q. So the only record that you keep of the  
22 deductions, then, is contained within the Excel spread  
23 sheet?  
24 A. Yes.  
25 Q. So in order for us to get the complete records,

Page 84

1 we need a copy of the Excel spreadsheet as it pertains  
2 to Paul Aranda?  
3 MR. CARLSON: I'm going to object as  
4 argumentative. I'm also going to object as vague and  
5 ambiguous as to the term "records"; and that the  
6 plaintiff has not established in any way that a  
7 definition was ever included of that term that would  
8 make an unprinted computer record of an Excel  
9 spreadsheet responsive to this document request.  
10 BY MR. DAL BON:  
11 Q. In order to get the complete records, in order  
12 to be able to calculate the deductions from his checks,  
13 we would need the spreadsheet?  
14 MR. CARLSON: Is that a statement or a  
15 question?  
16 MR. DAL BON: It's a question.  
17 Q. We would need that read sheet; isn't that true?  
18 A. I don't know.  
19 MR. CARLSON: If you can answer.  
20 THE WITNESS: I don't know. If you have the  
21 pay stubs, you don't need it.  
22 BY MR. DAL BON:  
23 Q. If we don't have the pay stubs?  
24 A. Yes, you need it.  
25 Q. For the time period that Mr. Aranda worked as a

Page 85

1 piece worker, we would also need the codes, correct?  
2 A. Yes.  
3 Q. And we would need also the Excel spreadsheet,  
4 correct?  
5 A. It's all in one file.  
6 Q. Where is that file?  
7 A. In one of the company computers.  
8 Q. I believe earlier you testified that it was  
9 also in his personnel file?  
10 A. What?  
11 Q. Payroll records.  
12 A. This, cash advance records and his payroll  
13 record is on the Excell spreadsheet. His piece work  
14 records is on a file, and we have paperwork also on  
15 that.  
16 Q. So you have paperwork on the piece work?  
17 A. Yes.  
18 Q. And it's in a file?  
19 A. It's in a file. Not in his personnel file, in  
20 the company files.  
21 Q. What of his payroll records is in the personnel  
22 file?  
23 A. Payroll? Each paycheck?  
24 Q. Okay.  
25 A. It's not in his personnel files. What's on his

Page 86

1 personnel files is his cash advance and his car  
2 agreement.

3 Q. And those are on paper?

4 A. Yes.

5 Q. And if we don't have those, we would need  
6 those, too?

7 A. Yes.

8 Q. But we don't, okay.

9 MR. DAL BON: I don't have any further  
10 questions.

11 MR. CARLSON: Okay. I have no questions.

12 (Recess taken.)

13 MR. CARLSON: So for the record, we had  
14 scheduled the deposition of plaintiff to take place  
15 tomorrow, and counsel for plaintiff has notified us that  
16 that deposition is being taken off calendar, and I want  
17 to put on the record that we are notifying counsel that  
18 we have gone to substantial expense to travel here, to  
19 book hotels here and that canceling these depositions  
20 creates a great financial burden for us. I have already  
21 cleared my calendar as well through Friday, and we have  
22 properly noticed the deposition of the plaintiff for  
23 tomorrow. So we want to make sure that the record is  
24 clear that we are going to move to compel to regain  
25 these expenses.

Page 87

1 MR. DAL BON: And on the record, opposing  
2 counsel just met and conferred with Adam Wang who is the  
3 lead attorney on this case concerning these issues, and  
4 it is our opinion that we have just discovered documents  
5 that have to do with payroll which is the heart of this  
6 case pertaining to our plaintiff and were not produced  
7 to us despite our written requests and their assurances  
8 at least two times that they had produced all the  
9 documents, and that's it.

10 MR. CARLSON: Let me just respond just for the  
11 record. The document that was admitted as Exhibit G  
12 contains the request, and it is our position that the  
13 documents that they are talking about which may or may  
14 not exist -- I'm not even sure if they do still exist --  
15 but if they do, they are not responsive to a single  
16 request therein; however, I want the record to be clear  
17 that the defendants have always cooperated during  
18 discovery and that we are not ruling out the possibility  
19 of finding those documents and producing them  
20 voluntarily.

21 MR. DAL BON: Of course, we have a different  
22 opinion, but that's it.

23 (Time ending: 2:12 p.m.)  
24  
25

Page 88

1 STATE OF \_\_\_\_\_)  
2 ) SS.

3 COUNTY OF \_\_\_\_\_)  
4  
5  
6

7 I, the undersigned, declare under penalty of  
8 perjury that I have read the foregoing transcript, and I  
9 have made any corrections, additions or deletions that I  
10 was desirous of making; that the foregoing is a true and  
11 correct transcript of my testimony contained therein.

12 EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,  
13 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
14 [City] [State]  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

\_\_\_\_\_  
DANIELLE SILVA

Page 89

# REPORTER'S CERTIFICATE

1  
2  
3  
4 I, NANCY E. PRESANT-McDONALD, CSR No. 9906,  
5 Certified Shorthand Reporter, certify;

6 That the foregoing proceedings were taken  
7 before me at the time and place therein set forth, at  
8 which time the witness was put under oath by me;

9 That the testimony of the witness, the  
10 questions propounded, and all objections and statements  
11 made at the time of the examination were recorded  
12 stenographically by me and were thereafter transcribed;

13 That the foregoing is a true and correct  
14 transcript of my shorthand notes so taken.

15 I further certify that I am not a relative or  
16 employee of any attorney of the parties, nor financially  
17 interested in the action.

18 I declare under penalty of perjury under the  
19 laws of California that the foregoing is true and  
20 correct.

21 Dated this 18TH day of JUNE, 2007.  
22  
23

\_\_\_\_\_  
NANCY E. PRESANT-McDONALD, C.S.R. No. 9906  
24  
25